

PROFESSIONAL SERVICES AGREEMENT

Between the City of Reedley and the Greater Reedley Chamber of Commerce
for Economic Development Services

This Professional Services Agreement (Agreement) is entered into this 1st day of July, 2012, by and between the City of Reedley, a municipal corporation, ("City"), and The Greater Reedley Chamber of Commerce, a California nonprofit public benefit corporation ("Chamber").

WITNESS

WHEREAS, City depends on proactive, sustained efforts in economic development to revitalize the City and ensure its fiscal resources remain stable; and

WHEREAS, City desires to provide the best possible environment for existing Reedley businesses, as well as businesses looking to locate in the Central Valley; and

WHEREAS, City has laid off staff due to the severe economic decline, making it difficult to perform critical economic development functions; and

WHEREAS, the mission of the Chamber is to support business, both existing and new businesses; and

WHEREAS, the City and the Chamber now wish to enter into this Agreement to work together in a formalized relationship to leverage the strengths the Chamber has in business attraction, retention, and expansion.

NOW, THEREFORE, in consideration of the above recitals, the parties agree as follows:

1. PARTICIPATING AGENCIES AND DESIGNATED CONTACT PERSONS

City Representative: Nicole R. Zieba, City Manager
City of Reedley
1717 Ninth Street
Reedley, CA 93654
Tel: (559) 637-4200 x. 212

Chamber Representative: Chairman of the Board
Greater Reedley Chamber of Commerce
1633 11th Street
Reedley, CA 93654
Tel: (559) 638-3548

2. ROLES, CONTRIBUTIONS AND RESPONSIBILITIES

A. The Chamber will:

(i) Recruit new businesses to Reedley, with an emphasis on companies that provide new jobs and/or significant sales tax base to the community. The Chamber's role will include marketing to new businesses, as well as responding to inquiries from businesses that are interested in coming to the community. The Chamber is expected to reach out to at least one (1) non-Reedley business per month.

(ii) Reach out to existing businesses in Reedley to identify any areas of assistance that the City may provide to the business. The Chamber will encourage existing businesses to expand operations. The Chamber is expected to make contact with at least five (5) existing businesses per month.

(iii) Assist the City in maximizing the City's investment in the Fresno County Economic Development Corporation (EDC), by maintaining contact with the EDC and assisting the EDC with any businesses recruitment efforts that pertain to Reedley.

(iv) Provide a detailed monthly written report on the activities above. The report will include the name of each company contacted and an explanation of action taken in regards to that company. The Chamber will specify any existing business that has an issue of significance that should be addressed by the City, and the report shall specify a recommended course of action for the City to take to address the issue.

B. City will:

(i) Provide any technical maps, parcel information, zoning information, or other development-related material that may be needed by the Chamber for business recruitment/expansion purposes.

(ii) Provide access to City leadership, including the Mayor and City Council for meetings with new businesses and/or existing businesses.

(iii) Provide the Chamber with the contact information for any business lead that comes directly to the City.

3. PERFORMANCE STANDARDS

The Chamber agrees that they will, at all time, faithfully, industriously, and to the best of their ability, perform the duties and functions that are required under this Agreement.

4. COMPENSATION

The Chamber shall be paid a flat fee of \$50,000 annually for the services described above. The fee shall be paid in quarterly installments of \$12,500 on July 1st, October 1st, January 1st, and April 1st. Payments will be made no later than 30 days after the beginning of each quarter of this Agreement.

5. EFFECTIVENESS, DURATION AND TERMINATION

This Agreement shall be effective as of the date first written above, and shall remain in effect for an initial term running through June 30, 2013. The Agreement shall automatically renew, upon appropriation of funds by the City Council for the fiscal year coinciding with the new contract year. If no funds are appropriated by the City Council for this Agreement for the subsequent fiscal year, this Agreement shall be considered expired on June 30th of the fiscal year for which funds were appropriated.

Either party may at any time terminate this Agreement (i) without cause at the party's convenience by giving not less than one month (thirty (30) days) prior written notice to the other party, or (ii) with cause upon written notice to the other party following the other party's failure to reasonably cure an event of non-performance hereunder following thirty (30) days written notice thereof. Termination shall be effective (the "Effective Date of Termination") as of the date specified in said notice of termination. Upon such termination, all rights and obligations of each party under this Agreement shall cease as of the Effective Date of Termination, except for those specific obligations that shall survive termination as set forth herein. Should Chamber terminate this Agreement, Chamber shall reimburse City a pro-rated share of the compensation provided under this Agreement, based upon a 12-month timeframe. Should City terminate this Agreement, City agrees to forfeit all compensation paid under this Agreement for months that services are not rendered.

6. RECORDKEEPING AND PERFORMANCE DATA

Each party shall keep and maintain proper records and documentation sufficient to substantiate its contributions hereunder, and shall make such available for review and audit during normal operating hours upon the reasonable written request of the other party for a period of three (3) years following expiration or earlier termination of this Agreement.

7. COMPLIANCE WITH GOVERNING LAW

Each party shall comply with all federal, state and local laws, rules and regulations in its pursuit hereof. No party in its performance of this Agreement shall employ discriminatory practices on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era.

8. CAPACITY OF CITY AND THE CHAMBER

Each party is acting in an independent capacity. Nothing in this Agreement and nothing in the course of dealings between the parties hereunder shall be deemed to create any fiduciary relationship, trust, partnership, joint venture, agency or employment relationship, jointly and severally.

In addition and without limitation, each party shall be solely responsible for all matters relating to payment of its employees, including, but not limited to, compliance with applicable social security withholding, workers' compensation insurance, benefits and all other regulations governing such matters. Personnel supplied by City will not for any purpose be considered employees or agents of the Chamber. The City assumes full responsibility for the actions of such personnel while they are performing services pursuant to this Agreement, and shall be solely responsible for their supervision, daily direction and control, payment of salary (including withholding of income taxes and social security), disability benefits and the like, as applicable. Conversely, personnel supplied by the Chamber will not for any purpose be considered employees or agents of the City. The Chamber assumes full responsibility for the actions of such personnel while they are performing services pursuant to this Agreement, and shall be solely responsible for their supervision, daily direction and control, payment of salary (including withholding of income taxes and social security), disability benefits and the like, as applicable.

The City and the Chamber agree and acknowledge that their relationship is strictly and solely that of an independent contractor to each other. The City's employees and/or agents are not entitled to any employee benefits or insurance, including without limitation any health care, worker's compensation, unemployment or disability benefits, to be provided by the Chamber. The Chamber

agrees and acknowledges that the Chamber's employees and/or agents are not entitled to any employee benefits or insurance, including without limitation any health care, worker's compensation, unemployment or disability benefits, to be provided by the City.

The parties further agree and acknowledge that each party is solely responsible for determining the method and means by which it will fulfill its obligations hereunder. Each shall be solely responsible for payment of all sales, use, or other taxes assessed against or associated with the performance of each party's respective obligations or on the exercise of their rights under this Agreement, including without limitation income, payroll or employment-related taxes and payments.

Neither party shall engage any person or entity to serve in any capacity, or incur any expense or obligation on behalf of the other without the prior written consent of both parties.

9. INDEMNIFICATION

The Chamber shall indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by the Chamber, City or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly from the negligent or intentional acts or omissions, or willful misconduct of the Chamber or any of its officers, officials, employees, agents or volunteers in the performance of this Agreement.

City shall indemnify, hold harmless and defend the Chamber and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by City, the Chamber or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly from the negligent or intentional acts or omissions, or willful misconduct of City or any of its officers, officials, employees, agents or volunteers in the performance of this Agreement; provided nothing herein shall constitute a waiver by City of governmental immunities including California Government Code section 810 et seq.

The Chamber agrees that this Agreement shall in no way act to abrogate or waive any immunities available to City under the Tort Claims Act of the State of California.

In the event of concurrent negligence on the part of the Chamber or any of its officers, officials, employees, agents or volunteers, and City or any of its officers, officials, employees, agents or volunteers, the liability for any and all such claims, demands and actions in law or equity for such losses, fines, penalties, forfeitures, costs and damages shall be apportioned under the State of California's theory of comparative negligence as presently established or as may be modified hereafter.

This section shall survive termination or expiration of this Agreement.

10. INSURANCE

Throughout the life of this Agreement, the Chamber shall pay for and maintain in full force and effect all policy(ies) of insurance required hereunder with (an) insurance company(ies) either (1)

admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A-VII" in Best's Insurance Rating Guide, or (2) authorized by the City Manager... The following policies of insurance are required:

- A. COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as Insurance Services Office (ISO) form CG 00 01 and shall include insurance for "bodily injury", "property damage" and "personal and advertising injury", including premises and operation, products and completed operations and contractual liability with limits of liability of not less than \$1,000,000 per occurrence for bodily injury and property damage, \$1,000,000 per occurrence for personal and advertising injury, \$2,000,000 aggregate for products and completed operations, and \$2,000,000 general aggregate.
- B. WORKERS' COMPENSATION insurance as required under the California Labor Code.

In the event the Chamber purchases an Umbrella or Excess insurance policy(ies) to meet the minimum limits of insurance set forth above, this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies).

The Chamber shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and the Chamber shall also be responsible for payment of any self-insured retentions. Any deductibles or self-insured retentions must be declared to, and approved by, the City Manager or his/her designee. At the option of the City Manager or his/her designee, either (i) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its officers, officials, employees, agents and volunteers; or (ii) the Chamber shall provide a financial guarantee, satisfactory to City Manager or his/her designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall City be responsible for the payment of any deductibles or self-insured retentions.

The above described policies of insurance shall be endorsed to provide an unrestricted thirty (30) day written notice in favor of the City, of policy cancellation, change or reduction of coverage, except for the Workers' Compensation policy which shall provide a ten (10) day written notice of such cancellation, change or reduction of coverage. In the event any policies are due to expire during the term of this Agreement, a new certificate evidencing renewal of such policy shall be provided not less than fifteen (15) days prior to the expiration date of the expiring policy(ies). Upon issuance by the insurer, broker, or agent of a notice of cancellation, change or reduction in coverage, the Chamber shall file with the City a certified copy of the new or renewal policy and certificates for such policy.

The General Liability and Automobile Liability insurance policies shall be written on an occurrence from and shall name the City, its officers, officials, agents, employees and volunteers as an additional insured. Such policy(ies) of insurance shall be endorsed so the Chamber's insurance shall be primary and no contribution shall be required of the City. Any Workers' Compensation insurance policy shall contain a waiver of subrogation as to the City and each of its officers, officials, employees, agents and volunteers. The Chamber shall furnish the City with the certificate(s) and applicable endorsements for ALL required insurance prior to the City's execution of this Agreement.

If at any time during the life of this Agreement or any extension, the Chamber fails to maintain any required insurance in full force and effect, all of the Chamber's activities under this Agreement shall be discontinued immediately, until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period

satisfactory to City. Any failure to maintain the required insurance shall be sufficient cause for City to terminate this Agreement. No action taken by City pursuant to this section shall in any way relieve the Chamber Corporation of its responsibilities under this Agreement.

Upon request of City, the Chamber shall immediately furnish City with a complete copy of any insurance policy required under Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

The fact that insurance is obtained by the Chamber shall not be deemed to release or diminish the liability of the Chamber, including, without limitation, liability under the indemnification provisions of this Agreement. The duty to indemnify City and its officials, officers, employees, agents and volunteers shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the Agreement of indemnification to be provided by the Chamber. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of the Chamber or any of its officers, board members, employees, agents, volunteers, invitees, caterers, concessionaires, suppliers, vendors, consultants, contractors or subcontractors.

If the Chamber should subcontract all or any portion of the services to be performed under this Agreement, the Chamber shall require each subcontractor to provide insurance protection in favor of City and each of its officers, officials, employees, agents and authorized volunteers in accordance with the terms of this section, except that any required certificates and applicable endorsements shall be on file with the Chamber and City prior to the commencement of any services by the subcontractor.

11. ATTORNEY'S FEES

If a party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its/their reasonable attorney's fees and legal expenses.

12. NOTICES

Any notice required or intended to be given to a party under the terms of this Agreement shall be in writing and shall be deemed to be duly delivered the earlier of (a) actual receipt by personal delivery to the representative (as defined herein), as the case may be, or in lieu of such personal service, by way of Federal Express, DHL, or other similar courier addressed to such party at the appropriate address set forth herein, (b) the date of receipt by facsimile to the City Representative or the Chamber Representative, or (c) three (3) business days after the date of mailing (postage pre-paid return receipt requested). Either party may change its address for the purpose of this Paragraph by giving written notice of such change to the other.

13. BINDING

Once this Agreement is signed by all the parties, it shall be binding upon, and shall inure to the benefit of, the parties, and each party's respective heirs, successors, assigns, transferees, agents, servants, employees and representatives. The terms and conditions of this Agreement, express or implied, exist only for the benefit of the parties to this Agreement and their respective successors and assigns. No other person or entity will be deemed to be a third party beneficiary of this Agreement.

14. ASSIGNMENT

There shall be no assignment by any party of its rights or obligations under this Agreement without the prior written approval of the other party. Any attempted assignment by a party, its successors or assigns, shall be null and void unless approved in writing by the other party.

15. WAIVER

The waiver by any party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement.

No provisions of this Agreement may be waived unless in writing and approved by and signed by all parties to this Agreement. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein.

No action or omission by either party shall constitute a breach of this Agreement unless the injured party first notifies the other party of the purported breach in writing setting forth the alleged breach or default and said party does not cure the same within a reasonable period of time. The payment of any fee or compensation or performance of any obligation hereunder by either party shall not constitute a waiver of any breach by the other party or of any of the rights and remedies which either party may have as a result of such breach. No waiver by either party of breach of the Agreement shall be implied from any failure by the other party to take action on account of such breach if such breach persists or is repeated. Waivers by either party of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition.

16. GOVERNING LAW AND VENUE

This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this Agreement and any rights and duties hereunder shall be Fresno, California.

17. HEADINGS

The section headings in this Agreement are for convenience and reference only and shall not be construed or held in any way to explain, modify or add to the interpretation or meaning of the provisions of this Agreement.

18. SEVERABILITY

The provisions of this Agreement are severable. The invalidity or unenforceability of any one provision in this Agreement shall not affect the other provisions.

19. INTERPRETATION

The parties acknowledge that this Agreement in its final form is the result of the combined efforts of the parties and that, should any provision of this Agreement be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in favor or against any party, but rather by construing the terms in accordance with their generally accepted meaning.

20. REPRESENTATIONS AND WARRANTIES

The Chamber represents and warrants that it is a duly authorized and existing California nonprofit corporation in good standing, and shall remain in good standing during the term of this Agreement. Each party hereby represents and warrants to the other party, and agrees that it has the full power and authority to enter into this Agreement and perform each of its obligations hereunder, and it is legally authorized and has obtained all necessary regulatory approvals for the execution, delivery, and performance of this Agreement.

21. ENTIRE AGREEMENT

It is mutually understood and agreed that the foregoing constitutes the entire Agreement between the parties. Any modifications or amendments to this Agreement must be in writing signed by an authorized agent of each party.

THE REST OF THIS PAGE IS INTENTIONALLY LEFT BLANK
SIGNATURES APPEAR ON NEXT PAGE

IN WITNESS THEREOF, the parties have caused their authorized agents to execute this Agreement as of the date first set forth above:

CITY OF REEDLEY,
a municipal corporation

By: _____

Nicole R. Zieba, City Manager

THE GREATER REEDLEY CHAMBER OF COMMERCE,
a California nonprofit public benefit corporation

By: _____

Chairman of the Board



CERTIFICATE OF LIABILITY INSURANCE

OP ID: TS

DATE (MM/DD/YYYY)

07/03/12

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Reedley Insurance Agency License #0B49416 1146 "G" Street Reedley, CA 93654 Mike Franks	559-638-2226 559-638-0036	CONTACT NAME: Mike Franks PHONE (A/C, No., Ext): 559-638-2226 E-MAIL ADDRESS: mfranks@reedleyinsurance.com PRODUCER CUSTOMER ID #: THEGR-1	FAX (A/C, No.): 559-638-0036
INSURED The Greater Reedley Chamber of Commerce Inc. Valerie Pieroni 1633 11th Street Reedley, CA 93654		INSURER(S) AFFORDING COVERAGE INSURER A: United State Liability INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY	X		NBP1550210-12	09/24/11	09/24/12	EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person) \$ 5,000
							PERSONAL & ADV INJURY \$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER						GENERAL AGGREGATE \$ 2,000,000
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						PRODUCTS - COMP/OP AGG \$ 1,000,000
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS						BODILY INJURY (Per accident) \$
	<input type="checkbox"/> SCHEDULED AUTOS						PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS						\$
	<input type="checkbox"/> NON-OWNED AUTOS						\$
	UMBRELLA LIAB	<input type="checkbox"/> OCCUR					EACH OCCURRENCE \$
	EXCESS LIAB	<input type="checkbox"/> CLAIMS-MADE					AGGREGATE \$
	DEDUCTIBLE						\$
	RETENTION \$						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATU-TORY LIMITS
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y/N	N/A				OTH-ER
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. EACH ACCIDENT \$
A	D & O			SAME #	09/24/11	09/24/12	E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$
							Prof Li 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

RE: All Events held within the city limits of Reedley that are sponsored by The Chamber of Commerce.

CERTIFICATE HOLDER**CANCELLATION**

CITY-HA

The City of Reedley
As Additional Insured
845 G Street
Reedley, CA 93654

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Mike Franks

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Name of Person Or Organization:

Effective Date: 09/24/2011

CITY OF REEDLEY

845 G STREET

REEDLEY, CA 93654

*Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph **C. Who Is An Insured in Section II - Liability:**

4. Any person or organization shown in the Schedule is an insured, but only with respect to liability arising out of your ongoing operations or premises owned by or rented to you.